

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

DEKATOR LANE NUNLEY,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-21-287-J
)	
STEPHENS COUNTY, et al.,)	
)	
Defendants.)	

ORDER

Plaintiff Dekator Lane Nunley, a state pretrial detainee appearing pro se and in forma pauperis, brought a civil rights action under 42 U.S.C. § 1983, alleging violations of his Eighth Amendment right to be free from cruel and unusual punishment. The matter was referred to United States Magistrate Judge Gary M. Purcell for initial proceedings consistent with 28 U.S.C. § 636. [Doc. No. 4]. On December 21, 2021, Judge Purcell issued a Report and Recommendation recommending that the Court: (1) grant Defendant Turn Key and Defendant Stephen County's Motions to Dismiss and dismiss all claims against them without prejudice; (2) grant Defendants Wayne McKinney, Bobby Bowen, Javier Martinez, and Eva Gray's (SCDC Defendants) motion to dismiss with regard to Plaintiff's official capacity claims and dismiss those claims with prejudice; (3) grant the SCDC Defendants' motion, construed as a motion for summary judgment, with regard to Plaintiff's individual capacity claims based on Plaintiff's failure to exhaust his administrative remedies; (4) grant Defendant Bobby Lewis' Motion to Dismiss and dismiss Plaintiff's claims against Defendant Lewis with prejudice; (5) dismiss Plaintiff's claims against Defendant Ken Graham with prejudice; and (6) dismiss Plaintiff's ADA claims without prejudice pursuant to 28 U.S.C. §§ 1915A(b), 1915(e)(2)(B). [Doc. No. 39]. Plaintiff was advised of his right to object to the Report and Recommendation by January 10, 2022. No objection has been

filed. Plaintiff has therefore waived any right to appellate review of the factual and legal issues in the Report and Recommendation. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

Accordingly, the Court (1) ADOPTS the Report and Recommendation [Doc. No. 39]; (2) GRANTS Defendant Turn Key and Defendant Stephens County's motions to dismiss [Doc. Nos. 27 and 29] and DISMISSES, without prejudice, all claims against Defendants Turn Key and Stephens County; (3) GRANTS the SCDC Defendants' motion to dismiss [Doc. No. 30] with regard to Plaintiff's official capacity claims and DISMISSES those claims with prejudice; (4) GRANTS the SCDC Defendants' motion [Doc. No. 30], construed as a motion for summary judgment, with regard to Plaintiff's individual capacity claims based on Plaintiff's failure to exhaust his administrative remedies; (5) GRANTS Defendant Bobby Lewis' motion to dismiss [Doc. No. 32] and DISMISSES, without prejudice, Plaintiff's claims against Defendant Lewis; (6) DISMISSES, with prejudice, Plaintiff's claims against Defendant Ken Graham; and (7) DISMISSES, without prejudice, Plaintiff's ADA claims pursuant to 28 U.S.C. §§ 1915A(b), 1915(e)(2)(B).

IT IS SO ORDERED this 25th day of January, 2022.



BERNARD M. JONES
UNITED STATES DISTRICT JUDGE